



Docket No.: F8860.0001/P001-A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ruth Frank

Application No.: 10/725,495

Confirmation No.: 3983

Filed: December 3, 2003

Art Unit: 2632

For: Storage tray

Examiner: T. T. Nguyen

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed March 28, 2005, applicant hereby provisionally elects claims 1-2, 6-11, 13-16 and 17-19 for continued examination, with traverse.

The Examiner has required restriction between Embodiments 1-6 as shown in Figures 1-9. The Examiner has indicated that the application contains multiple distinct species to which the claims shall be restricted.

In response to the restriction required set forth in the Office Action, Applicant hereby provisionally elects Embodiment 1 of Figure 1 for continued examination. At least claims 1, 2, 6-11, 13-16 and 17-19 are readable on Embodiment 1. Applicants traverse this restriction, however, for the following reasons.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the claimed subject matter may be classified in different classes, the inventions as claimed are not independent.

Moreover, M.P.E.P. § 803 directs as follows (emphasis added): "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." The directive should be followed by the Examiner in this case.

The total number of claims would not appear to pose any serious burden to search. Also, additional independent claims would not need to be considered. The subject matter of the non-elected claims is closely related to that of the provisionally elected claims and would not be a significant burden to the Examiner. Accordingly, the Examiner is respectfully urged to withdraw the outstanding restriction requirement and examine each of the pending claims.

It is respectfully requested that the restriction requirement be withdrawn, and that each of claims presently pending in this application be examined.

Applicant respectfully solicits issuance of the elected claims.

Dated: July 28, 2005

Respectfully submitted,

By 

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